

## **REMARKS**

Claims 1-14 are pending in the application. Claims 1-7 and 11-14 stand rejected in the referenced office action.

Claims 1, 5, 8 and 11 are independent claims. No claim amendments have been made herein. No new matter has been added by the amendments. The Examiner's objections and rejections are addressed below in substantially the same order as in the office action.

## **REJECTIONS UNDER 35 USC § 102**

Claims 1, 2, and 5-7 are rejected under 35 USC § 102(b) as being anticipated by Holland (US 5,991,920). Claims 1 and 5 are independent claims,

No claim amendments have been made herein. The Applicant respectfully disagrees with the Examiner's assertion that claim 1 is anticipated by *Holland*.

¶ 3 of the office action in which the Examiner makes the assertion is internally self-contradictory. Relevant portions of the paragraph are quoted here in full:

"In regard to Claims 1 and 2, Holland provides a swimsuit (1) having a **loop** (3) adapted to completely encircle a human waist. A fastening device (10) which couples a first part of **the swimsuit body** (4) to a second part of **the swimsuit body** (3). A storage compartment (2) on **the swimsuit body** (4) for compactly stowing the body (4). **The loop** (3) is positioned relative to **the swimsuit body** (4)

so that when the fastening device (10, 10a) is engaged the swimsuit (1) can be secured on a user's body." (emphasis added).

In the first sentence, the examiner identifies element (3) as a loop. In the second sentence, the same element (3) is now identified as a part of the swimsuit body. In the fourth sentence, the loop (3) is identified as being distinct from the swimsuit body (4). The Examiner cannot have element identified by reference numeral (3) as being two different elements that are distinct from each other and are the same as each other.

The Examiner's statement in ¶ 7 of the office action that "the loop can be considered as second part of the body" is contradictory to claim 1 of *Holland* in which the first member (the loop) is different from the second member (which includes the body and two ends). Attention of the Examiner is also drawn to ¶ 4 of the attached statement of the inventor of *Holland* that "A novel aspect of the invention, which is claimed in claim 1, is a first member (such as a loop) which encircles a human torso and a second member (including a body) which has an end that is detachably coupled to the first member. The second member (which includes the body) is separate and distinct from the first member."

Finally, it is a canon of patent law that claims of a patent are to be interpreted as being valid. To impose the Examiner's interpretation of the elements of *Holland* renders claim 1 of *Holland* invalid and/or nonsensical.

In order for a claimed invention to be anticipated by a prior art reference under 35 USC § 102, the prior art reference must disclose each and every limitation of the claim arranged as in the claim. This is clearly lacking in the present case. Accordingly, applicant respectfully submits that claim 1 and claims 2-4 that depend upon claim 1 are patentable under 35 USC § 102 over *Holland*.

In addition, there is no teaching or suggestion in *Holland* or the prior art of record of having a swimsuit that includes a fastening device that couples one part of a unitary swimsuit body to another part of the swimsuit body, together with the remaining limitations of claim 1. Accordingly, applicant further submits that claim 1 and claims 2-4 that depend upon claim 1 are also patentable under 35 USC § 103 over *Holland* and the prior art of record.

Claim 5 includes the substantive limitations of claim 1 discussed above. Accordingly, applicant further submits that claim 5 and claims 6-7 that depend upon claim 5 are patentable under 35 USC §§ 102-103 over *Holland* and the prior art of record for the same reasons that claim 1 is patentable under 35 USC §§ 102-103 over *Holland* and the prior art of record

### **REJECTIONS UNDER 35 USC § 103**

Claims 3, 4, and 11-14 are rejected under 35 USC § 103(a) as being unpatentable over *Holland*.

The patentability of claims 3 and 4 has been addressed above in the discussion of the rejection of claim 1 under 35 USC § 102.

With respect to the rejection of independent claim 11, the Examiner asserts in the referenced office action that:

“Holland provides … A fastener (10, 10a) for detachable coupling the *rear* end of the body (4) to the loop and a storage compartment (2) on the *front* of the swimsuit (1) for compactly stowing the body (4)..... Further, Holland teaches the *front end of the swimsuit having a greater width than the rear end of the swimsuit body.*” (emphasis added).

The teachings in *Holland* of the emphasized portion are the exact opposite of the invention of claim 11 and **not** what is asserted by the Examiner. The fastener of *Holland* couples the **front** end of the body to the loop. The storage compartment of *Holland* is on the **back** of the body. In contrast, the invention of claim 11 requires that the fastener couple the back of the body to the loop and that the storage compartment be on the front of the swimsuit

In view of the fact that *Holland* teaches away from two of the limitations of claim 11, applicant respectfully submits that the Examiner has failed to establish a *prima facie* case of obviousness, and that claims 11-14 are patentable under 35 USC § 103 over *Holland* and the prior art of record. . This argument was made in response to the previous office action and applicant respectfully requests that the Examiner address this argument and point out reasons why the argument is considered to be invalid.

For all the foregoing reasons, Applicant submits that the application is in a condition for allowance. The Commissioner is hereby authorized to charge any additional fees or credit any overpayment to Deposit Account No. **13-0010 (HOL-1002CP)**.

Respectfully submitted,

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